

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 763**

**Introduced by Assembly Member Bates**

February 24, 1999

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An act to ~~add Section 17205 to~~ *repeal and add Section 17052.25* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Bates. Income taxes: ~~deduction credit~~: adoption.

~~The Personal Income Tax Law provides an exclusion from income and a credit against taxes for certain adoption costs.~~

~~This bill would, in lieu of that exclusion and credit, allow a deduction for specified adoption costs.~~

*The Personal Income Tax Law allows a credit against the taxes imposed by that law in an amount equal to 50% of the costs, as specified, paid or incurred by a taxpayer for the adoption of any minor child who is a citizen or legal resident of the United States and was in the custody of a public agency of either this state or a political subdivision of this state.*

*This bill would, instead, provide conformity to the credit for adoption expenses allowed by federal income tax laws with specified exceptions and modifications.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. Section 17205 is added to the Revenue and Taxation Code, to read:~~

~~17205. (a) There shall be allowed as a deduction an amount equal to all costs paid or incurred during the taxable year by a taxpayer for the adoption of any minor child. Costs eligible for the deduction shall include, but are not limited to, any medical fees and expenses paid or incurred by the mother, surrogate parenting arrangement costs, travel expenses, legal fees, and adoption agency fees.~~

~~(b) The deduction allowed by this section shall be in lieu of any deduction or credit otherwise allowed by this part for those costs for which a deduction is allowed by this section.~~

~~SEC. 2.—~~

~~SECTION 1. Section 17052.25 of the Revenue and Taxation Code is repealed.~~

~~17052.25. (a) For each taxable year beginning on or after January 1, 1994, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to 50 percent of the costs paid or incurred by a taxpayer for the adoption of any minor child who is a citizen or legal resident of the United States and was in the custody of a public agency of either this state or a political subdivision of this state. The credit shall not exceed two thousand five hundred dollars (\$2,500) per minor child.~~

~~(b) “Costs” eligible for the credit pursuant to subdivision (a) shall include the following:~~

~~(1) Fees for required services of either the Department of Social Services or a licensed adoption agency.~~

~~(2) Travel and related expenses for the adoptive family that are directly related to the adoption process.~~

~~(3) Medical fees and expenses that are not reimbursed by insurance and are directly related to the adoption process.~~

~~(c) The credit authorized by this section shall be claimed for the taxable year in which the decree or order of adoption is entered pursuant to Section 8612 of the Family Code. However, the allowable credit claimed may include any costs of that adoption paid or incurred in any prior taxable year.~~

~~(d) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the total credit of two thousand five hundred dollars (\$2,500) per minor child is exhausted.~~

~~(e) Any deduction otherwise allowed under this part for any amount paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed under this section.~~

*SEC. 2. Section 17052.25 is added to the Revenue and Taxation Code, to read:*

*17052.25. For each taxable year beginning on or after January 1, 1999, there shall be allowed as a credit against the "net tax," as defined by Section 17039, 50 percent of the amount of the qualified adoption costs paid or incurred by the taxpayer for which a credit is allowed by Section 23 of the Internal Revenue Code, modified as follows:*

*(a) The aggregate amount of qualified adoption expenses that may be taken into account under Section 23(a) of the Internal Revenue Code for all taxable years with respect to the adoption of a child by the taxpayer shall be only those expenses that exceed five thousand dollars (\$5,000), six thousand dollars (\$6,000) in the case of a child with special needs, but are less than or equal to ten thousand dollars (\$10,000).*

*(b) The term "eligible child" shall be defined as an individual who has not attained 18 years of age, or is physically or mentally incapable of caring for himself or herself, and Section 23(d)(2)(B) of the Internal Revenue Code shall not apply.*

*(c) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to*

1 *reduce the “net tax” in the following year, and*  
2 *succeeding years if necessary, until the credit is*  
3 *exhausted.*

4 SEC. 3. This act provides for a tax levy within the  
5 meaning of Article IV of the Constitution and shall go into  
6 immediate effect.

